

Applicant : Perry R. DeYoung
Appln. No. : 10/763,720
Page : 6

REMARKS

Claims 1, 2, 7, 8, 13, 14 and 19-21 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

In the Office Action, the drawings have been objected to for not showing grabbing ribs having a longer dimension that extends in the direction perpendicular to the tapering direction. However, in Fig. 3, the tapering direction is a vertical direction as oriented in Fig. 3. Furthermore, the grabbing ribs 36 extend in a direction perpendicular to the tapering or vertical direction such that the grabbing ribs have a longer dimension that extends in the direction perpendicular to the tapering direction. Accordingly, Applicant submits that the drawing includes all of the features of the claims.

In the Office Action, claims 1-3, 5, 7-9 and 11 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. US 2003/0131393 to Votolato in view of U.S. Patent No. 6,532,597 to Bignon et al. In order to establish a *prima facie* case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met the Examiner's burden of establishing a *prima facie* case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

Claim 1 has been amended to include the subject matter of claim 5 (which also included the subject matter of claim 3). Accordingly, claim 1 defines a food holder comprising a substantially symmetrical U-shaped body comprising a pair of opposite digit pockets for accepting fingers or a thumb of a user of the food holder therein and a food pocket located between the digit pockets. The digit pockets taper to accept the fingers or thumb placed therein and to frictionally connect the food holder to a hand of the user. An exterior surface of the digit pockets has elongated ridges to prevent cutting of the surface and into an interior of

Applicant : Perry R. DeYoung
Appln. No. : 10/763,720
Page : 7

the digit pockets during use of the food holder. The food pocket defines an opening having an open front and a closed rear and opposite sides of the digit pockets defining the food pocket include grabbing ribs for maintaining food within the food pocket as the digit pockets are moved toward each other. The digit pockets taper in a tapering direction and the ridges have a longer dimension in the tapering direction than in a direction perpendicular to the tapering direction. The grabbing ribs have a longer dimension in the direction perpendicular to the tapering direction than in the tapering direction.

The prior art of record does not disclose or suggest the above noted features of claim 1. Specifically, even if the Votolato '393 publication and the Bignon et al. '597 patent were combined, the resulting combination would not result in a digit pocket tapering in a tapering direction with ridges having a longer dimension in the tapering direction than in a direction perpendicular to the tapering direction and the grabbing ribs having a longer dimension in the direction perpendicular to the tapering direction than in the tapering direction. Accordingly, claim 1 is in condition for allowance. Furthermore, claim 2 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 2 defines patentable subject matter. Accordingly, claims 1 and 2 are in condition for allowance.

Claim 7 as amended includes the subject matter of claims 9 and 11 (and therefore is identical to claim 11 as was pending). Claim 7 defines a method of grabbing food comprising providing a food holder comprising a substantially symmetrical U-shaped body having a pair of opposite digit pockets and a food pocket located between the digit pockets, with the digit pockets tapering, and with an exterior surface of the digit pockets having elongated ridges, placing fingers in a first one of the digit pockets and placing a thumb in a second one of the digit pockets to frictionally connect the food holder to a user, placing food within the food pocket and moving the digit pockets towards each other to capture the food within the food pocket. The food pocket defines an opening having an open front and a closed rear and opposite sides of the digit pockets defining the food pocket include grabbing ribs for maintaining the food within the food pocket as the digit pockets are moved toward each other. The digit pockets taper in a tapering direction and the ridges have a longer dimension in the tapering direction than in a direction perpendicular to the tapering direction. The grabbing ribs

Applicant : Perry R. DeYoung
Appln. No. : 10/763,720
Page : 8

have a longer dimension in the direction perpendicular to the tapering direction than in the tapering direction.

The prior art of record does not disclose or suggest the above noted features of claim 7. Specifically, even if the Votolato '393 publication and the Bignon et al. '597 patent were combined, the resulting combination would not result in a digit pocket tapering in a tapering direction with ridges having a longer dimension in the tapering direction than in a direction perpendicular to the tapering direction and the grabbing ribs having a longer dimension in the direction perpendicular to the tapering direction than in the tapering direction. Accordingly, claim 7 is in condition for allowance. Furthermore, claim 8 depends from claim 7, and since claim 7 defines unobvious patentable subject matter as discussed above, claim 8 defines patentable subject matter. Accordingly, claims 7 and 8 are in condition for allowance.

Claim 13 includes the subject matter of claims 15 and 17 as pending (and therefore is identical to claim 17 as was pending). Claim 13 defines a method of cutting food comprising providing a food holder comprising a substantially symmetrical U-shaped body having a pair of opposite digit pockets and a food pocket located between the digit pockets, with the digit pockets tapering, and with an exterior surface of the digit pockets having elongated ridges to prevent cutting of the surface and into an interior of the digit pockets during use of the food holder, placing fingers in a first one of the digit pockets and placing a thumb in a second one of the digit pockets to frictionally connect the food holder to a user, placing food within the food pocket, moving the digit pockets towards each other to capture the food within the food pocket and cutting the food, wherein the food pocket defines an opening having an open front and a closed rear and wherein opposite sides of the digit pockets defining the food pocket include grabbing ribs for maintaining the food within the food pocket as the digit pockets are moved toward each other. The digit pockets taper in a tapering direction and the ridges have a longer dimension in the tapering direction than in a direction perpendicular to the tapering direction and the grabbing ribs have a longer dimension in the direction perpendicular to the tapering direction than in the tapering direction.

The prior art of record does not disclose or suggest the above noted features of claim 13. Specifically, even if the Votolato '393 publication and the Bignon et al. '597 patent were

Applicant : Perry R. DeYoung
Appln. No. : 10/763,720
Page : 9

combined, the resulting combination would not result in a digit pocket tapering in a tapering direction with ridges having a longer dimension in the tapering direction than in a direction perpendicular to the tapering direction and the grabbing ribs having a longer dimension in the direction perpendicular to the tapering direction than in the tapering direction. Accordingly, claim 13 is in condition for allowance. Furthermore, claim 14 depends from claim 13, and since claim 13 defines unobvious patentable subject matter as discussed above, claim 14 defines patentable subject matter. Accordingly, claims 13 and 14 are in condition for allowance.

Claim 19 depends from claim 1, and further defines the ridges of the digit pockets as being made of material thicker than areas of the digit pockets surrounding the ridges. The prior art of record does not disclose or suggest any thicker ridges. Accordingly, claim 19 is in condition for allowance.

Claim 20 depends from claim 7, and further defines the ridges of digit pockets as being made of material thicker than areas of the digit pockets surrounding the ridges. The prior art of record does not disclose or suggest any thicker ridges. Accordingly, claim 20 is in condition for allowance.

Claim 21 depends from claim 13, and further defines the ridges of the digit pockets as being made of material thicker than the areas of the digit pockets surrounding the ridges. The prior art of record does not disclose or suggest any thicker ridges. Accordingly, claim 21 is in condition for allowance.

Applicant : Perry R. DeYoung
Appln. No. : 10/763,720
Page : 10

All pending claims 1, 2, 7, 8, 13, 14 and 19-21 are believed to be in condition for allowance, and a Notice of Allowability is therefore earnestly solicited.

Respectfully submitted,

July 17, 2006

Date

/Marcus P. Dolce/
Marcus P. Dolce, Registration No. 46 073
Price, Heneveld, Cooper, DeWitt & Litton, LLP
695 Kenmoor, S.E.
Post Office Box 2567
Grand Rapids, Michigan 49501
(616) 949-9610

MPD/msj